IN THE HIGH COURT OF DELHI

C.R.P. No.1094/2002

Shri Rajesh Bhasin ..... Petitioner
! through: Mr.Ajay Arora, Adv.

VERSUS

$ Punjab National Bank & Anr. ..... Respondents
^ through: Nemo.

% DATE OF DECISION: 20.11.2007

CORAM:
* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y

2. To be referred to the Reporter or not? Y

3. Whether judgment should be reported in Digest? Y

: **PRADEEP NANDRAJOG, J.**

1. Matter has been listed in court by the Registrar pointing out that process fee was not being filed and hence respondent No.2 was not being served.

2. What has happened in the corridors of this Court for the last 5 years in the instant petition is nothing but a comedy of errors. I may call it a tragedy of the process of law.

3. First respondent, Punjab National Bank, filed a suit for recovery alleging that Bharti Electronics impleaded as defendant No.1 was the sole proprietary firm of R. Bhasin impleaded as defendant No.2.

4. Surprisingly enough, the lawyer who drafted the plaint,

ignorant of the law impleaded Bharti Electronics as defendant No.1 and R.Bhasin as defendant No.2. What the lawyer ignored was that the sole proprietary firm has no juristic existence.

5. Summons were issued in the suit. Petitioner was served with the summons for defendant No.2. He entered appearance. Summons served for service upon Bharti Electronics were not responded. Bharti Electronics was proceeded against ex-parte. The bank took its sweet time to lead evidence. Stage of defendant's evidence was reached.

6. Petitioner started leading defence evidence. He availed of 2 opportunities but led no evidence. On the third date adjournment was prayed for. It was declined. Petitioner impleaded as defendant No.2 in the suit, is aggrieved by the order dated 17.10.2002 which closed defence evidence.

7. The above captioned revision petition was filed impleading Punjab National Bank, the plaintiff as respondent No.1. The stated sole proprietary firm of the petitioner was impleaded as respondent No.2. The petitioner went about filing process fee to serve respondent No.2 which as per the plaint is none else than the sole proprietary firm of the petitioner. Punjab National Bank was served for 16.1.2004. Since then attempts were being made to serve respondent No.2.

8. As per the plaint respondent No.2 is none else other than

the alter ego or if I may use the expression the commercial face of the petitioner.

9. This court has been noting loose and laconic pleadings. This court has been noticing that the art of drafting plaints has been totally lost to virtually every member of the Bar. If the lawyer for the bank was careful he ought to have not impleaded the sole proprietary firm as an independent defendant. Had the lawyer for the petitioner been vigilant he could have informed the court that the so called defendant No.1 is a non-entity. Had the lawyer for the petitioner been vigilant he could have well informed the court that respondent No.2 is nothing but a ghost which can never be served.

10. What may appear to be trivial defect in a plaint has resulted in everybody messing around with the process of law. As the saying goes “trifles make perfection and perfection is no trifles.” Earlier the members of the legal fraternity understand the meaning of the quoted phrase, the better it would be for the legal profession.

11. It is unfortunate that years and years are spent on chasing non-issues. Instant case is an example of how delays take place due to lack of vigilance shown by the legal fraternity.

12. Reverting to the facts of the case, suffice would it be to note that the learned Trial Judge has acted in haste in passing the order dated 17.10.2002. I note that the plaintiff bank took over 24 opportunities to lead plaintiff's evidence. Further, Annexure P-1

shows that representation was made before the court by counsel for the petitioner when order dated 17.10.2002 was passed.

13. Under the circumstances I dispose of the petition setting aside the order dated 17.10.2002. Learned Trial Judge would grant one opportunity to the petitioner to lead evidence.

14. Learned Trial Judge would delete defendant No.1 from the array of defendants for the reason as per the plaintiff defendant No.1 is none else other than the sole proprietary firm of defendant No.2. I clarify that defendant No.2 denies doing business under the name and style of defendant No.1.

15. No costs.

November 20, 2007 **PRADEEP NANDRAJOG, J.**
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